

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ERNEST T. YOUNG,

Plaintiff,

v.

LIFE INSURANCE COMPANY
OF NORTH AMERICA,

Defendant.

Civil Action No.

COMPLAINT

The plaintiff, Ernest T. Young ("Young"), states to the Court as follows:

1. Young files this action under 29 U.S.C. § 1132(a)(1)(B) of the Employee Retirement Income Security Act of 1974 ("ERISA").
2. This Court has jurisdiction over this action under 29 U.S.C. § 1132(e) and 28 U.S.C. § 1331. Venue is proper in this judicial district under 29 U.S.C. § 1132(e).
3. Young is, and at all relevant times has been, a citizen and resident of New Castle County, Delaware. Young is, and at all relevant times has been, a participant or beneficiary in a long-term disability benefit plan sponsored by Hercules Incorporated.
4. The long-term disability plan was funded and insured by an insurance policy (upon information and belief, and based upon documents obtained, policy no. LK-030292), issued by defendant Life Insurance Company of North America ("LINA"). This LINA policy has been in full force and effect at all relevant times. According to the policy provided to Young, LINA is the named fiduciary for adjudicating claims for disability benefits and deciding any appeals of denied claims.

5. LINA is an insurance carrier that is doing business in this judicial district and that may be found in this judicial district.

6. While covered by the applicable LINA policy, Young ceased working in 2006 due to his serious health conditions, impairments, and disability. These health problems are well documented in the applicable long-term disability claim file in the possession of LINA. Young submitted appropriate proofs of his loss to LINA. Young received a letter dated March 5, 2007, indicating that he did not qualify for long-term disability benefits under the LINA policy. LINA refused to pay long-term disability benefits to Young.

7. Young appealed the refusal to pay benefits, submitting additional information and proof of loss in support of his claim. A letter dated February 13, 2008, upheld the earlier refusal to pay benefits.

8. Young is, and has been at all relevant times, disabled under the terms of the LINA policy. He is entitled to past-due and continuing long-term disability benefits under the provisions of that policy. At all relevant times, he has satisfied the definition of disability under the applicable policy.

9. The refusal to pay disability benefits to Young was wrong, unreasonable, irrational, and contrary to the terms of the applicable LINA policy. By refusing to pay such benefits, LINA has violated, and continues to violate, the terms of the LINA policy and Young's rights to past-due and continuing disability benefits.

10. Young was not accorded a full and fair review of his claim for disability benefits as required by the LINA policy, ERISA (29 U.S.C. § 1133), and CRF § 2560.503-1. Among other things, the decision-maker ignored or gave insufficient consideration to information submitted by Young and other information; failed to analyze and review the facts and

circumstances in a fair and reasonable manner; failed to provide a claims process free of self-interest and bias (including but not limited to the biased and flawed evaluation of the facts and circumstances of the claim by the decision-maker's personnel and outside consultants); failed to have different people decide the original claim and the appeal; failed to reasonably consider and address the materials and proofs submitted; and failed to conduct a competent and reasonable investigation and review of the facts and circumstances.

11. By refusing to pay disability benefits to Young, LINA has also operated under a conflict of interest to the detriment of Young. Upon information and belief, LINA is the funding source and payor of all disability benefits owed to eligible claimants (including Young) under the LINA policy at issue. LINA is responsible for paying past-due disability benefits and ongoing, future disability benefits to Young under the LINA policy.

12. ERISA (29 U.S.C. § 1132(a)(1)(B)) permits a plan participant or beneficiary to bring a civil action to recover benefits due under a plan, to enforce rights under the plan, and to clarify rights to future benefits under the plan. Young seeks this relief.

13. The facts and circumstances of this matter warrant an award of Young's attorneys' fees against the defendant under 29 U.S.C. § 1132(g) and related case law.

PRAYER FOR RELIEF

WHEREFORE, Ernest T. Young requests that the Court grant the following relief:

1. An order and judgment in favor of the plaintiff against LINA for all disability benefits owed to him under the applicable plan policy;
2. An order and judgment reinstating future, ongoing disability benefits owed or available to him by LINA under the applicable disability policy;
3. All pre-judgment and post-judgment interest allowed by law;

4. Attorney's fees and costs under 29 U.S.C. § 1132(g);
5. Costs; and
6. All other available relief that is equitable and just.

PLAINTIFF ERNEST T. YOUNG

By: 

Herbert G. Feuerhake, Esq. #2590
521 West Street
Wilmington, DE 19801
(302) 658-6101
herblaw@verizonmail.com
Attorney for Plaintiff

Date: April 7, 2008

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Ernest T. Young

(b) County of Residence of First Listed Plaintiff New Castle Co., DE
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Herbert G. Feuerhake, Esq., 521 West St., Wilmington DE 19801
(302) 658-6101

DEFENDANTS

Life Insurance Company of North America

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS Third Party 26 USC 7609	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
ERISA (29 U.S.C. § 1132)

Brief description of cause:
Claim for long-term disability benefits

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

4/7/2008

SIGNATURE OF ATTORNEY OF RECORD

Herbert G. Feuerhake

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

08 - 194

Civil Action No. _____

ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

4/7/08
(Date forms issued)

X [Signature]
(Signature of Party or their Representative)

X
(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action